

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

SHAWNETTE LYNN SHERBINO,

Plaintiff,

v.

Civ. No. 2:22-cv-00273-KG-GBW

ALLSTATE ASSURANCE COMPANY,

Defendant.

**STIPULATION FOR  
DISMISSAL AND DISCHARGE**

Plaintiff Shawnette Sherbino, Defendant Allstate Life Insurance Company,<sup>1</sup> now known as Everlake Life Insurance Company (“Everlake”), and Movant Intervenors Luis C. Rojero and Laura I. Rojero (“Rojero Claimants”), by and through their attorneys, hereby stipulate to the dismissal and discharge of Everlake as follows:

1. On or about November 14, 2017, Allstate Life Insurance Company issued a life insurance policy (Policy No. 06T1E79072) on the life of Luis Rojero, providing a death benefit of \$1,000,000. The named beneficiary of the policy was Plaintiff Shawnette Lynn Sherbino.
2. On or about April 19, 2021, Rojero died at his home in Lincoln County, New Mexico, from a gunshot wound to the head. Sherbino admits she was operating the firearm at the time but contends the death was a tragic accident.
3. On or about June 25, 2021, Sherbino submitted a claim for death benefits under the policy.
4. Law enforcement personnel in Lincoln County advised Everlake that Rojero’s was the subject of a criminal investigation. Accordingly, Everlake advised Sherbino that it was not

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<sup>1</sup> Allstate Life Insurance Company was improperly identified in the complaint as Allstate Assurance Company.

able to process the claim for benefits due to the pending investigation. While it is undisputed that Sherbino was the named beneficiary of the policy, to the extent she caused Rojero's, New Mexico's slayer statutes potentially impacted her right to recover the benefits of the policy. *See* N.M. Stat. § 30-2-9(B); N.M. Stat. § 45-2-803. .

5. Sherbino later filed a civil action against in the 12<sup>th</sup> Judicial District, Lincoln County, seeking payment of the death benefits and other relief. Everlake removed the action to the United States Court for the District of New Mexico.

6. Everlake and Sherbino met and conferred on multiple occasions regarding Sherbino's claim, and it was understood that Everlake did not contest payment of the death benefits. Instead, Everlake was unable to complete its claim evaluation based on the pending criminal investigation.

7. On May 31, 2022, Sherbino and Everlake submitted a joint motion requesting that the Court direct Everlake to deposit the proceeds of the policy into the registry of the Court, *see* D.E. 8, and on June 1, 2022, the Court granted that motion. *See* D.E. 9.

8. On or about June 10, 2022, Everlake tendered to the registry of the Court a check for the full death benefit of \$1,000,000 plus all post-mortem interest due under law.

9. On April 5, 2023, Sherbino was charged in a one-count criminal complaint for involuntary manslaughter in violation of New Mexico Statutes Annotated § 30-02-03(B). *See State of New Mexico v. Shawnette Sherbino*, No. M30FR 2023-23 (Magistrate Court, Lincoln Cty., New Mexico, Apr. 5, 2023).

10. An involuntary manslaughter conviction is a fourth-degree felony. *See* N.M. Stat. Ann. § 30-2-3(B) ("[w]hoever commits involuntary manslaughter is guilty of a fourth-degree

felony resulting in the death of a human being.). Sherbino and Everlake agreed and understood that a conviction for the crime charged would not implicate New Mexico's slayer statutes.

11. On April 11, 2023, Everlake and Sherbino filed a Joint Notice of Agreed Upon Settlement, notifying the Court that the parties had resolved all differences. *See* D.E. 19. On April 13, 2023, the Court ordered Sherbino to submit all closing documents by May 11, 2023. *See* D.E. 20.

12. On April 18, 2023, before Everlake and Sherbino had completed the closing documents, the Rojero Claimants (*i.e.*, Luis C. Rojero and Laura I. Rojero) filed a Certificate of Interested Persons in this action. *See* D.E. 21. On April 25, 2023, the Rojero Claimants filed a Motion to Intervene in this action, claiming a legal interest in the proceeds of the subject policy of insurance. *See* D.E. 22

13. On April 28, 2023, the Court vacated the order requiring Sherbino to submit closing documents by May 11, 2023, *see* D.E. 25, but the motion to intervene remains pending.

14. Sherbino and the Rojero Claimants have asserted competing claims to the insurance proceeds. Everlake is a disinterested stakeholder that deposited the disputed funds into the registry of the Court more than a year ago pursuant to a court order. Everlake has no stake in the outcome of the dispute Sherbino and the Rojero Claimants over the insurance proceeds between.

15. For these reasons, it is hereby **STIPULATED** and **AGREED** among the parties and **ORDERED** by the Court as follows:

(a) Everlake is **DISMISSED** from this action with prejudice and **TERMINATED** from any further involvement. This dismissal and discharge fully releases Everlake from any and all obligations of any kind with respect to Policy No. 06T1E79072 on the life of Luis Rojero.

(b) Sherbino, the Rojero Claimants, and any and all third parties are permanently enjoined from instituting, prosecuting or continuing any proceeding, action, arbitration, lawsuit or claim against Everlake, or any of its agents, affiliates, assigns, predecessors or successors, attorneys, or directors with respect to Policy No. 06T1E79072 on the life of Luis Rojero, the deposited funds, and any interest thereon, as well as any and all claims that were or could have been raised at any time relating to Policy No. 06T1E79072. The injunction herein applies to all third parties and all claims or actions of any kind or nature in any court or before any tribunal, but not limited to claims for bad faith or extra-contractual or statutory damages.

(c) Any person not yet joined as a party to this action who may make a claim for, or be later found to be entitled to, the deposited funds is also subject to the injunction set forth in subparagraph (b).

(d) Everlake waives any claim to the deposited funds, irrespective of the outcome of any dispute between Sherbino and the Rojero Claimants or any third party.

**IT IS SO STIPULATED AND ORDERED.**

  
UNITED STATES DISTRICT JUDGE

Approved by:

/s/ Gary C. Mitchell

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